

## **REMARKS**

Applicant replies within two months to the final Office Action dated December 6, 2010. Claims 1, 3, 6-17, 19-22, 25-28, 30-36 and 39 are pending in the application and the Examiner rejects claims 1, 3, 6-17, 19-22, 25-28, 30-36 and 39. Support for the amendments may be found in the originally-filed specification, claims, and figures, for example, in paragraph 43 of the application. Applicant respectfully requests reconsideration of this application.

### **112 rejections**

The Examiner rejects claims 1, 3, 6-17, 19-22, 25-28, 30-36 and 39 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Although the Applicant disagrees with this rejection, Applicant has removed the objected to elements and request that the Examiner withdraw this rejection. Furthermore, Applicant reserves the right to present the same or similar elements at a later time.

### **§ 103(a) Rejections**

The Examiner rejects claims 1, 3, 6-16, 19-22, 26 and 39 under 35 U.S.C. 103(a) as being unpatentable over Kraml et al., U.S. Patent No. 6,141,683 (“Kraml”), in view of Aghera et al., U.S. Publication No. 2004/0098715 A1 (“Aghera”), further in view of Cheston et al., U.S. Patent No. 6,195,695 (“Cheston”), and further in view of Linam et al., U.S. Patent No. 6,401,218 (“Linam”). Additionally, the Examiner rejects claims 17, 27, 28 and 31-36 under 35 U.S.C. 103(a) as being unpatentable over Kraml, in view of Aghera, in view of Cheston, in view of Linam, and further in view of Aija et al., U.S. Patent No. 6,928,579 (“Aija”). Furthermore, the Examiner rejects claim 25 under 35 U.S.C. 103(a) as being unpatentable over Kraml, in view of Aghera, in view of Cheston, further in view of Linam, and further in view of Simionescu et al., U.S. Publication No. 2003/0084337 A1 (“Simionescu”). Moreover, the Examiner rejects claim 30 under 35 U.S.C. 103(a) as being unpatentable over Kraml, in view of Aghera, further in view of Cheston, further in view of Linam, further in view of Simionescu, and further in view of Aija. Applicant respectfully disagrees with these rejections, but amends certain claims (without prejudice or disclaimer) in order to further clarify the patentable aspects of the claims and to expedite prosecution.

Aghera discloses communication of version information of currently installed patches on a mobile device. "The patch server application 100 has to receive at least the following capability negotiation parameters from the patch agent application 106: Mobile Device Model ID; **Versions of currently installed patch on the mobile device** for all processors on the mobile device; ROM software version being patched; and Free Storage Space available in the first memory 112. The above parameters are necessary for the patch server application 100 to check if the wireless device 12 needs a software patch, if it is able to upgrade the wireless device 12" (Aghera, para. 45). Furthermore, and as stated by the Examiner, Kraml "does not explicitly teach receiving a version indicator from said software-defined radio device, said version indicator identifying software which is currently loaded on said software-defined radio device" (Office Action, p. 9).

However, the cited references do not disclose or contemplate, alone or in combination, "[a] method comprising: *receiving, via radio frequency (RF) communication, information identifying a currently running software and information related to a staged software to be loaded on a restart of a software-defined radio device*; transferring, via said RF communication and *in response to said stage software being improper*, software directly to said software-defined radio device from a software server to create transferred software..." as recited in amended independent claim 1 (emphasis added), and as similarly recited in independent claims 16, 27, and 39. For at least these reasons, Applicant respectfully requests withdrawal of the rejections of independent claims 1, 16, 27, and 39.

Furthermore, dependent claims 3, 6-9, 11-15, 17, 19, 21-22, 25-26, 28, 30-31, and 33-36 variously depend from independent claims 1, 16, and 27. Applicant thus asserts that dependent claims 3, 6-9, 11-15, 17, 19, 21-22, 25-26, 28, 30-31, and 33-36 are differentiated from the cited references for the reasons set forth above for differentiating independent claims 1, 16, and 27, in addition to their own unique features.

Use of "non-transitory" is to be understood to remove only propagating transitory signals per se from the claim scope and does not relinquish rights to all standard CRM that are not only propagating transitory signals per se. In other words, the meaning of "non-transitory computer-readable medium" should be construed to exclude only those types of transitory computer-readable media which were found in *Nuijten* to fall outside the scope of patentable subject matter under 35 U.S.C. § 101.

In view of the above remarks, Applicant respectfully requests withdrawal of all rejections of the pending claims. The Examiner is invited to telephone the undersigned at the Examiner's convenience, if that would help further prosecution of the subject application. The Commissioner is authorized to charge any fees due to Deposit Account No. 19-2814.

Respectfully submitted,

Dated: Jan 31, 2011

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